

SENATE BILL No. 749

October 12, 2011, Introduced by Senator HUNTER and referred to the Committee on Economic Development.

A bill to amend 1893 PA 206, entitled
"The general property tax act,"
by amending section 78m (MCL 211.78m), as amended by 2006 PA 498.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 78m. (1) Not later than the first Tuesday in July,
2 immediately succeeding the entry of judgment under section 78k
3 vesting absolute title to tax delinquent property in the
4 foreclosing governmental unit, this state is granted the right of
5 first refusal to purchase property at the greater of the minimum
6 bid or its fair market value by paying that amount to the
7 foreclosing governmental unit if the foreclosing governmental unit
8 is not this state. If this state elects not to purchase the
9 property under its right of first refusal, a city, village, or
10 township may purchase for a public purpose any property located
11 within that city, village, or township set forth in the judgment

1 and subject to sale under this section by payment to the
2 foreclosing governmental unit of the minimum bid. If a city,
3 village, or township does not purchase that property, the county in
4 which that property is located may purchase that property under
5 this section by payment to the foreclosing governmental unit of the
6 minimum bid. If property is purchased by a city, village, township,
7 or county under this subsection, the foreclosing governmental unit
8 shall convey the property to the purchasing city, village,
9 township, or county within 30 days. If property purchased by a
10 city, village, township, or county under this subsection is
11 subsequently sold for an amount in excess of the minimum bid and
12 all costs incurred relating to demolition, renovation,
13 improvements, or infrastructure development, the excess amount
14 shall be returned to the delinquent tax property sales proceeds
15 account for the year in which the property was purchased by the
16 city, village, township, or county or, if this state is the
17 foreclosing governmental unit within a county, to the land
18 reutilization fund created under section 78n. Upon the request of
19 the foreclosing governmental unit, a city, village, township, or
20 county that purchased property under this subsection shall provide
21 to the foreclosing governmental unit without cost information
22 regarding any subsequent sale or transfer of the property. This
23 subsection applies to the purchase of property by this state, a
24 city, village, or township, or a county prior to a sale held under
25 subsection (2).

26 (2) Subject to subsection (1), beginning on the third Tuesday
27 in July immediately succeeding the entry of the judgment under

1 section 78k vesting absolute title to tax delinquent property in
2 the foreclosing governmental unit and ending on the immediately
3 succeeding first Tuesday in November, the foreclosing governmental
4 unit, or its authorized agent, at the option of the foreclosing
5 governmental unit, shall hold at least 2 property sales at 1 or
6 more convenient locations at which property foreclosed by the
7 judgment entered under section 78k shall be sold by auction sale,
8 which may include an auction sale conducted via an internet
9 website. Notice of the time and location of the sales shall be
10 published not less than 30 days before each sale in a newspaper
11 published and circulated in the county in which the property is
12 located, if there is one. If no newspaper is published in that
13 county, publication shall be made in a newspaper published and
14 circulated in an adjoining county. Each sale shall be completed
15 before the first Tuesday in November immediately succeeding the
16 entry of judgment under section 78k vesting absolute title to the
17 tax delinquent property in the foreclosing governmental unit.
18 Except as provided in subsection (5), property shall be sold to the
19 person bidding the highest amount above the minimum bid. The
20 foreclosing governmental unit may sell parcels individually or may
21 offer 2 or more parcels for sale as a group. The minimum bid for a
22 group of parcels shall equal the sum of the minimum bid for each
23 parcel included in the group. The foreclosing governmental unit may
24 adopt procedures governing the conduct of the sale and may cancel
25 the sale prior to the issuance of a deed under this subsection if
26 authorized under the procedures. The foreclosing governmental unit
27 may require full payment by cash, certified check, or money order

1 at the close of each day's bidding. Not more than 30 days after the
2 date of a sale under this subsection, the foreclosing governmental
3 unit shall convey the property by deed to the person bidding the
4 highest amount above the minimum bid. The deed shall vest fee
5 simple title to the property in the person bidding the highest
6 amount above the minimum bid, unless the foreclosing governmental
7 unit discovers a defect in the foreclosure of the property under
8 sections 78 to 78/. If this state is the foreclosing governmental
9 unit within a county, the department of natural resources shall
10 conduct the sale of property under this subsection and subsections
11 (4) and (5) on behalf of this state.

12 (3) For sales held under subsection (2), after the conclusion
13 of that sale, and prior to any additional sale held under
14 subsection (2), a city, village, or township may purchase any
15 property not previously sold under subsection (1) or (2) by paying
16 the minimum bid to the foreclosing governmental unit. If a city,
17 village, or township does not purchase that property, the county in
18 which that property is located may purchase that property under
19 this section by payment to the foreclosing governmental unit of the
20 minimum bid. **IF A CITY, VILLAGE, TOWNSHIP, OR COUNTY DOES NOT**

21 **PURCHASE THAT PROPERTY, THAT PROPERTY MAY BE PURCHASED BY A LAND**
22 **BANK FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND**
23 **BANK FAST TRACK ACT, 2003 PA 258, MCL 124.773, BY PAYING THE**
24 **MINIMUM BID TO THE FORECLOSING GOVERNMENTAL UNIT. IF A LAND BANK**
25 **FAST TRACK AUTHORITY CREATED UNDER SECTION 23(5) OF THE LAND BANK**
26 **FAST TRACK ACT, 2003 PA 258, MCL 124.773, DOES NOT PURCHASE THAT**
27 **PROPERTY, THAT PROPERTY MAY BE PURCHASED BY A LAND BANK FAST TRACK**

1 AUTHORITY CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST TRACK
2 ACT, 2003 PA 258, MCL 124.773, BY PAYING THE MINIMUM BID TO THE
3 FORECLOSING GOVERNMENTAL UNIT. IF A LAND BANK FAST TRACK AUTHORITY
4 CREATED UNDER SECTION 23(4) OF THE LAND BANK FAST TRACK ACT, 2003
5 PA 258, MCL 124.773, DOES NOT PURCHASE THAT PROPERTY, THAT PROPERTY
6 MAY BE PURCHASED BY A LAND BANK FAST TRACK AUTHORITY CREATED UNDER
7 SECTION 15 OF THE LAND BANK FAST TRACK ACT, 2003 PA 258, MCL
8 124.765, BY PAYING THE MINIMUM BID TO THE FORECLOSING GOVERNMENTAL
9 UNIT.

10 (4) If property is purchased by a city, village, township, or
11 county under subsection (3), the foreclosing governmental unit
12 shall convey the property to the purchasing city, village, or
13 township within 30 days.

14 (5) All property subject to sale under subsection (2) shall be
15 offered for sale at not less than 2 sales conducted as required by
16 subsection (2). The final sale held under subsection (2) shall be
17 held not less than 28 days after the ~~previous~~**IMMEDIATELY PRECEDING**
18 sale under subsection (2). At the final sale held under subsection
19 (2), the sale is subject to the requirements of subsection (2),
20 except that the minimum bid shall not be required. However, the
21 foreclosing governmental unit may establish a reasonable opening
22 bid at the sale to recover the cost of the sale of the parcel or
23 parcels.

24 (6) On or before December 1 immediately succeeding the date of
25 the sale under subsection (5), a list of all property not
26 previously sold by the foreclosing governmental unit under this
27 section shall be transferred to the clerk of the city, village, or

1 township in which the property is located. The city, village, or
2 township may object in writing to the transfer of 1 or more parcels
3 of property set forth on that list. On or before December 30
4 immediately succeeding the date of the sale under subsection (5),
5 all property not previously sold by the foreclosing governmental
6 unit under this section shall be transferred to the city, village,
7 or township in which the property is located, except those parcels
8 of property to which the city, village, or township has objected.
9 Property located in both a village and a township may be
10 transferred under this subsection only to a village. The city,
11 village, or township may make the property available under the
12 urban homestead act, 1999 PA 127, MCL 125.2701 to 125.2709, or for
13 any other lawful purpose.

14 (7) If property not previously sold is not transferred to the
15 city, village, or township in which the property is located under
16 subsection (6), the foreclosing governmental unit shall retain
17 possession of that property. If the foreclosing governmental unit
18 retains possession of the property and the foreclosing governmental
19 unit is in this state, title to the property shall vest in the land
20 bank fast track authority created under section 15 of the land bank
21 fast track act, 2003 PA 258, MCL 124.765.

22 (8) A foreclosing governmental unit shall deposit the proceeds
23 from the sale of property under this section into a restricted
24 account designated as the "delinquent tax property sales proceeds
25 for the year ____". The foreclosing governmental unit shall
26 direct the investment of the account. The foreclosing governmental
27 unit shall credit to the account interest and earnings from account

1 investments. Proceeds in that account shall only be used by the
2 foreclosing governmental unit for the following purposes in the
3 following order of priority:

4 (a) The delinquent tax revolving fund shall be reimbursed for
5 all taxes, interest, and fees on all of the property, whether or
6 not all of the property was sold.

7 (b) All costs of the sale of property for the year shall be
8 paid.

9 (c) Any costs of the foreclosure proceedings for the year,
10 including, but not limited to, costs of mailing, publication,
11 personal service, and outside contractors shall be paid.

12 (d) Any costs for the sale of property or foreclosure
13 proceedings for any prior year that have not been paid or
14 reimbursed from that prior year's delinquent tax property sales
15 proceeds shall be paid.

16 (e) Any costs incurred by the foreclosing governmental unit in
17 maintaining property foreclosed under section 78k before the sale
18 under this section shall be paid, including costs of any
19 environmental remediation.

20 (f) If the foreclosing governmental unit is not this state,
21 any of the following:

22 (i) Any costs for the sale of property or foreclosure
23 proceedings for any subsequent year that are not paid or reimbursed
24 from that subsequent year's delinquent tax property sales proceeds
25 shall be paid from any remaining balance in any prior year's
26 delinquent tax property sales proceeds account.

27 (ii) Any costs for the defense of title actions.

1 (iii) Any costs incurred in administering the foreclosure and
2 disposition of property forfeited for delinquent taxes under this
3 act.

4 (g) If the foreclosing governmental unit is this state, any
5 remaining balance shall be transferred to the land reutilization
6 fund created under section 78n.

7 (h) In 2008 and each year after 2008, if the foreclosing
8 governmental unit is not this state, not later than June 30 of the
9 second calendar year after foreclosure, the foreclosing
10 governmental unit shall submit a written report to its board of
11 commissioners identifying any remaining balance and any contingent
12 costs of title or other legal claims described in subdivisions (a)
13 through (f). All or a portion of any remaining balance, less any
14 contingent costs of title or other legal claims described in
15 subdivisions (a) through (f), may subsequently be transferred into
16 the general fund of the county by the board of commissioners.

17 (9) Two or more county treasurers of adjacent counties may
18 elect to hold a joint sale of property as provided in this section.
19 If 2 or more county treasurers elect to hold a joint sale, property
20 may be sold under this section at a location outside of the county
21 in which the property is located. The sale may be conducted by any
22 county treasurer participating in the joint sale. A joint sale held
23 under this subsection may include or be an auction sale conducted
24 via an internet website.

25 (10) The foreclosing governmental unit shall record a deed for
26 any property transferred under this section with the county
27 register of deeds. The foreclosing governmental unit may charge a

1 fee in excess of the minimum bid and any sale proceeds for the cost
2 of recording a deed under this subsection.

3 ~~—— (11) As used in this section, "minimum bid" is the minimum~~
4 ~~amount established by the foreclosing governmental unit for which~~
5 ~~property may be sold under this section. The minimum bid shall~~
6 ~~include all of the following:~~

7 ~~—— (a) All delinquent taxes, interest, penalties, and fees due on~~
8 ~~the property. If a city, village, or township purchases the~~
9 ~~property, the minimum bid shall not include any taxes levied by~~
10 ~~that city, village, or township and any interest, penalties, or~~
11 ~~fees due on those taxes.~~

12 ~~—— (b) The expenses of administering the sale, including all~~
13 ~~preparations for the sale. The foreclosing governmental unit shall~~
14 ~~estimate the cost of preparing for and administering the annual~~
15 ~~sale for purposes of prorating the cost for each property included~~
16 ~~in the sale.~~

17 (11) ~~(12)~~ For property transferred to this state under
18 subsection (1), **A LAND BANK FAST TRACK AUTHORITY UNDER SUBSECTION**
19 **(3), OR** a city, village, or township under subsection (6) or
20 retained by a foreclosing governmental unit under subsection (7),
21 all taxes due on the property as of the December 31 following the
22 transfer or retention of the property are canceled effective on
23 that December 31.

24 (12) ~~(13)~~ For property sold under this section, transferred to
25 this state under subsection (1), **A LAND BANK FAST TRACK AUTHORITY**
26 **UNDER SUBSECTION (3),** a city, village, or township under subsection
27 (6), or retained by a foreclosing governmental unit under

subsection (7), all liens for costs of demolition, safety repairs, debris removal, or sewer or water charges due on the property as of the December 31 immediately succeeding the sale, transfer, or retention of the property are canceled effective on that December 31. This subsection does not apply to liens recorded by the department of ~~environmental quality~~ **NATURAL RESOURCES** under this act or the land bank fast track act, 2003 PA 258, MCL 124.751 to 124.774.

(13) ~~(14)~~ If property foreclosed under section 78k and held by or under the control of a foreclosing governmental unit is a facility as defined under section ~~20101(1)(e)~~ **20101(1)(R)** of the natural resources and environmental protection act, 1994 PA 451, MCL 324.20101, prior to the sale or transfer of the property under this section, the property is subject to all of the following:

(a) Upon reasonable written notice from the department of ~~environmental quality~~ **NATURAL RESOURCES**, the foreclosing governmental unit shall provide access to the department of ~~environmental quality~~ **NATURAL RESOURCES**, its employees, contractors, and any other person expressly authorized by the department of ~~environmental quality~~ **NATURAL RESOURCES** to conduct response activities at the foreclosed property. Reasonable written notice under this subdivision may include, but is not limited to, notice by electronic mail or facsimile, if the foreclosing governmental unit consents to notice by electronic mail or facsimile prior to the provision of notice by the department of ~~environmental quality~~ **NATURAL RESOURCES**.

(b) If requested by the department of ~~environmental quality~~

1 **NATURAL RESOURCES** to protect public health, safety, and welfare or
 2 the environment, the foreclosing governmental unit shall grant an
 3 easement for access to conduct response activities on the
 4 foreclosed property as authorized under chapter 7 of the natural
 5 resources and environmental protection act, 1994 PA 451, MCL
 6 324.20101 to ~~324.20519~~ **324.20302**.

7 (c) If requested by the department of ~~environmental quality~~
 8 **NATURAL RESOURCES** to protect public health, safety, and welfare or
 9 the environment, the foreclosing governmental unit shall place and
 10 record deed restrictions on the foreclosed property as authorized
 11 under chapter 7 of the natural resources and environmental
 12 protection act, 1994 PA 451, MCL 324.20101 to ~~324.20519~~ **324.20302**.

13 (d) The department of ~~environmental quality~~ **NATURAL RESOURCES**
 14 may place an environmental lien on the foreclosed property as
 15 authorized under section 20138 of the natural resources and
 16 environmental protection act, 1994 PA 451, MCL 324.20138.

17 **(14)** ~~(15)~~ If property foreclosed under section 78k and held by
 18 or under the control of a foreclosing governmental unit is a
 19 facility as defined under section ~~20101(1)(e)~~ **20101(1)(R)** of the
 20 natural resources and environmental protection act, 1994 PA 451,
 21 MCL 324.20101, prior to the sale or transfer of the property under
 22 this section, the department of ~~environmental quality~~ **NATURAL**
 23 **RESOURCES** shall request and the foreclosing governmental unit shall
 24 transfer the property to the state land bank fast track authority
 25 created under section 15 of the land bank fast track act, 2003 PA
 26 258, MCL 124.765, if all of the following apply:

27 (a) The department of ~~environmental quality~~ **NATURAL RESOURCES**

1 determines that conditions at a foreclosed property are an acute
2 threat to the public health, safety, and welfare, to the
3 environment, or to other property.

4 (b) The department of ~~environmental quality~~ **NATURAL RESOURCES**
5 proposes to undertake or is undertaking state-funded response
6 activities at the property.

7 (c) The department of ~~environmental quality~~ **NATURAL RESOURCES**
8 determines that the sale, retention, or transfer of the property
9 other than under this subsection would interfere with response
10 activities by the department of ~~environmental quality~~ **NATURAL**
11 **RESOURCES**.

12 (15) AS USED IN THIS SECTION:

13 (A) "LAND BANK FAST TRACK AUTHORITY" MEANS A LAND BANK FAST
14 TRACK AUTHORITY CREATED UNDER THE LAND BANK FAST TRACK ACT, 2003 PA
15 258, MCL 124.751 TO 124.774.

16 (B) "MINIMUM BID" IS THE MINIMUM AMOUNT ESTABLISHED BY THE
17 FORECLOSING GOVERNMENTAL UNIT FOR WHICH PROPERTY MAY BE SOLD UNDER
18 THIS SECTION. THE MINIMUM BID SHALL INCLUDE ALL OF THE FOLLOWING:

19 (i) ALL DELINQUENT TAXES, INTEREST, PENALTIES, AND FEES DUE ON
20 THE PROPERTY. IF A CITY, VILLAGE, OR TOWNSHIP PURCHASES THE
21 PROPERTY, THE MINIMUM BID SHALL NOT INCLUDE ANY TAXES LEVIED BY
22 THAT CITY, VILLAGE, OR TOWNSHIP AND ANY INTEREST, PENALTIES, OR
23 FEES DUE ON THOSE TAXES.

24 (ii) THE EXPENSES OF ADMINISTERING THE SALE, INCLUDING ALL
25 PREPARATIONS FOR THE SALE. THE FORECLOSING GOVERNMENTAL UNIT SHALL
26 ESTIMATE THE COST OF PREPARING FOR AND ADMINISTERING THE ANNUAL
27 SALE FOR PURPOSES OF PRORATING THE COST FOR EACH PROPERTY INCLUDED

1 IN THE SALE.